

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 ADAM GOBER,

Case No.: 3:20-cv-00594-MMD-WGC

4 Plaintiff

Order

5 v.

6 NEVADA SUPREME COURT,
7 NEVADA COURT OF APPEALS, et. al.,

8 Defendants

9
10 Plaintiff is an inmate in the custody of the Nevada Department of Corrections (NDOC),
11 housed at Ely State Prison (ESP). He filed an initiating document with this court titled "Notice of
12 Intent 42 U.S.C. § 1983 Civil Rights Complaint." (ECF No. 1-1.) The document was not
13 accompanied by an application to proceed *in forma pauperis* (IFP) or the filing fee.

14 The Local Rules of Practice for the District of Nevada provide: "Any person who is
15 unable to prepay the fees in a civil case may apply to the court for authority to proceed *in forma*
16 *pauperis* (IFP). The application must be made on the form provided by the court and must
17 include a financial affidavit disclosing the applicant's income, assets, and liabilities." LSR 1-1.
18 When a prisoner seeks to proceed without prepaying the filing fee, in addition to filing the
19 affidavit, the prisoner is required to submit a certified copy of the trust fund account statement
20 (or institutional equivalent) for the six-month period immediately preceding the filing of the
21 complaint. The statement must be obtained from the appropriate official at the prison or
22 detention facility where the prisoner is or was confined. 28 U.S.C. § 1915(a)(2).

23 When a prisoner brings a civil action IFP, the prisoner is still required to pay the full
amount of the filing fee. The court is required to assess, and when funds exist, collect an initial

1 partial payment of 20 percent of the greater of: (A) the average monthly deposits in the
2 prisoner's account or (B) the average monthly balance in the prisoner's account for the six-
3 month period immediately preceding the filing of the complaint. Thereafter, whenever the
4 prisoner's account exceeds \$10, the prisoner must make monthly payments of 20 percent of the
5 preceding month's income credited to the prisoners account until the filing fees are paid. The
6 funds are to be forwarded by the agency having custody of the prisoner. 28 U.S.C. § 1915(b)(1),
7 (2).

8 The regular filing fee is \$400, consisting of the \$350 filing fee and a \$50 administrative
9 fee. If an inmate does not qualify for IFP status, he must pay the full \$400 filing fee. If the
10 inmate qualifies for IFP status, the \$50 administrative fee is waived, and the inmate will only pay
11 the \$350 filing fee over time.¹

12 The Clerk shall **SEND** Plaintiff a copy of the instructions and application to proceed IFP
13 for an inmate. Plaintiff has **30 days** from the date of this Order to either file his completed IFP
14 application and financial certificate or pay the full \$400 filing fee.

15 Once Plaintiff has filed his completed IFP application and financial certificate or paid the
16 filing fee, the court is required to screen the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) or
17 28 U.S.C. § 1915A, or both. Both require dismissal of a complaint, or any portion thereof, that is
18 frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary
19 relief against a defendant who is immune from such relief. If the complaint is dismissed on
20 screening, there will be no refund of the filing fee, and an inmate proceeding IFP is still required
21 to pay the \$350 filing fee over time.

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23 ¹ The administrative fee was increased to \$52 as of December 2020. This document was filed in
October of 2020; therefore, the \$50 administrative fee will apply.

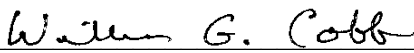
1 Plaintiff's initiating document is titled a "notice of intent" to file a civil rights complaint
2 under 42 U.S.C. § 1983. It goes on to state that "we shall prove by exhibits that Mr. Gober's
3 appeal was filed in the Nevada Supreme Court on 9/15/16" and that it was held without being
4 assigned to a judge until November 1, 2017, and the transfer to an appellate court violated the
5 court's rules. Under the section of the form titled "request for relief" it states: "We reserve the
6 right to state relief when amended complaint is filed along with exhibits." (ECF No. 1-1.)

7 An action is commenced in federal court by filing a complaint with the court. Fed. R.
8 Civ. P. 3. A "notice of intent" does not commence a federal civil action. Plaintiff is required to
9 file his complaint, asserting his allegations and claims for relief in the first instance. Therefore,
10 Plaintiff also has **30 days** from the date of this Order to file a civil rights complaint.

11 If Plaintiff fails to timely file a completed IFP application and financial certificate or pay
12 the filing fee, or file a civil rights complaint, this action will be dismissed.

13 **IT IS SO ORDERED.**

14 Dated: March 22, 2021

15 
16 William G. Cobb
17 United States Magistrate Judge
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